

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 82 - SB 263

February 7, 2023

SUMMARY OF BILL AS AMENDED (003666): Makes various changes to workers' compensation statutes.

Clarifies that a judge of a court of workers' compensation may review and approve an injured employee's attorney's fee as to reasonableness up to the statutory maximum allowed for attorney's fees. Extends the timeline, from June 30, 2023 to June 30, 2025, in which injuries occur and an employer wrongfully denies an employee's claim or fails to provide certain entitled benefits, the Court of Workers' Compensation Claims may subsequently award reasonable attorneys' fees and reasonable costs, including, but not limited to, reasonable and necessary court reporter expenses and expert witness fees for depositions and trials.

Authorizes the Bureau of Workers' Compensation (BWC) to utilize funds in the Uninsured Employers Fund (UEF) to provide death benefits to eligible employees who suffered an injury arising primarily within the course and scope of the employee's employment with an employer who failed to provide workers' compensation coverage at the time of the eligible employee's death. Authorizes a death benefit award of \$20,000 to an eligible employee claimant, payable from the UEF, when the employer has failed to provide workers' compensation coverage. Increases the maximum amount, from \$40,000 to \$60,000, that may be awarded from the UEF to an eligible, injured employee or the employees' dependent, having won a workers' compensation claim and subsequently requested benefits from the BWC. Clarifies that total temporary and medical benefits payable by the BWC to an injured employee cannot exceed \$40,000, exclusive of death benefits.

Authorizes the Commissioner of Labor and Workforce Development (DLWD) to establish by rule a voluntary physician education program which provides additional reimbursement under the comprehensive medical fee schedule set by the BWC. Requires the Commissioner to determine in rule the education and quality improvement requirements to receive this additional reimbursement.

FISCAL IMPACT OF BILL AS AMENDED:

Increase State Expenditures –

\$20,000/FY23-24 and Subsequent Years/Uninsured Employers Fund

The Governor's proposed budget for FY23-24, on page A-33, recognizes a recurring increase in state expenditures from the General Fund of \$20,000.

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Assumptions for the bill as amended:

- The proposed clarification regarding attorney's fees will not impact BWC operations.
- There will be an increase in expenditures from the UEF in conjunction with awarding a \$20,000 death benefit to eligible claimants.
- Based on information provided by the BWC, the bureau is only aware of one instance of an employee dying from work-related causes who worked for an employer failing to provide workers' compensation coverage.
- It is assumed that there will be one death benefit awarded annually, payable from the UEF.
- There will be a recurring increase in state expenditures of \$20,000 from the UEF in FY23-24 and subsequent years.
- Pursuant to Tenn. Code Ann. § 50-6-802(c), an injured employee may receive from the BWC no more than \$20,000 for temporary disability benefits or medical benefits, or a total of \$40,000.
- Clarifying that both temporary disability benefits and medical benefits, in aggregate, cannot exceed \$40,000, exclusive of death benefits, will have no significant impact on the BWC or UEF.
- The BWC currently provides a voluntary physician education program to help further educate physicians of workers' compensation-related issues.
- Based on information provided by the BWC, there is no fee involved with the voluntary physician education program, as it is a free, online course for physicians who, after taking the course, become certified and can charge insurance carriers higher fees for office visits and performing impairment ratings.
- The Governor's proposed budget for FY23-24, on page A-33, recognizes a recurring increase in state expenditures from the General Fund of \$20,000.

IMPACT TO COMMERCE OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- This legislation is estimated to result in an increase in expenditures for insurance carriers in this state that will be required to pay higher fees to doctors who become certified through the voluntary physician education program.
- Medical doctors who gain such certification will be paid more for certain office visits and performing impairment ratings.
- It is assumed that the net impact to commerce or jobs in this state is not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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